

Teenage Confidentiality & Adolescent Health: Access to Confidential Healthcare

Legislative Program Review &
Investigations Committee
Adolescent Health Care in Connecticut
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Goals of this Presentation

1. Introduce the basic legal principles of adolescent confidentiality and teenage legal rights.
2. Examine the tension b/t confidential care and "best practices" for institutional (i.e. school) based care
3. Provide a short primer as to the tension between mandatory reporting and confidential care

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Case Example #1 **Amber's Pregnancy**

- Amber, a 14 year old high school student, sees her primary care provider (PCP) in the clinic and confides in her that she thinks she's pregnant.
 - Must the PCP report this sexual activity to DCF?
- The clinician confirms that she is pregnant though a diagnostic test – and she asks the practitioner not to inform her mother.
 - Must the clinician inform the mom? May she?
- Amber tells the PCP that she wants to carry the baby to term – and that under no circumstances should her mother be told.
 - Is the PCP under any obligation to honor Amber's request?

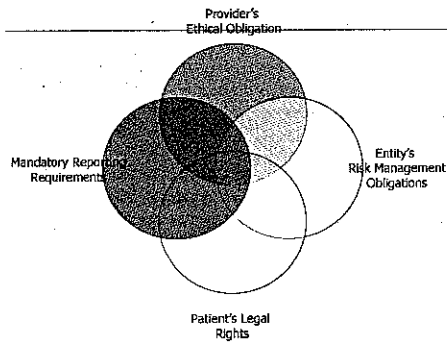
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Case Example #2 **Mark's Dilemma**

- Mark, a 16 y.o. boy – indicates that he is quite depressed and has contemplated suicide.
- He tells the PCP that if he asks his parents' permission to seek mental health treatment, they will scoff at his request and call him a "sissy."
- He asks the PCP if he can seek confidential mental health treatment without obtaining his parents' consent.
 - May he obtain this treatment without parental consent?
 - What if he wishes to seek inpatient treatment – may he do so without parental consent?
- What if he also confides in the PCP that he may have a substance abuse problem – what are his confidential rights to treatment in that arena?

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Overview - Treating the Adolescent



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Principles of Confidentiality - Definitions -

Who is a minor?

Anyone under the
age of 18, except
as otherwise
indicated



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Conn. Gen. Stat. § 1-1d

...definitions continued

What is informed
consent?

**A minor
CANNOT give
informed
consent!**

Signed consent from a
patient
acknowledging that
the patient has been
made aware of the
risks and benefits of
alternative
procedures and the
consequences
resulting from those
procedures.

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...definitions continued

Who is a
mature minor?

**Connecticut courts
have not recognized
the mature minor
doctrine in any
reported case**



A minor who exhibits
the "maturity" of an
adult and is
therefore permitted
to make decisions,
traditionally
reserved for those
who have attained
the age of majority,
regarding her own
medical care.

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...definitions continued

■ Emancipation:

- The legal process available by which a 16 or 17 year old minor achieves adult status.

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Types of Medical Conditions/Treatments

- Drug and Alcohol Treatment
- Mental Health Treatment – Outpatient and Inpatient
- Medical or Surgical Treatment Related to protected Care
- Reproductive Rights
- Testing and Treatment of HIV and AIDS



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Drug and Alcohol Treatment



A minor **CAN** consent for drug/alcohol treatment from a licensed treatment provider.



A parent **CANNOT** be told that his/her child is receiving treatment without consent from the minor.



No reported decisions on whether a physician must report results of a drug test, done during a routine physical, to a parent.

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Conn. Gen. Stat. § 17a-688d.

Drug and Alcohol Treatment

Caveat:

- No third party billing
- Confidential records
- Minor liable for care and treatment
- Must be a licensed specialist in a general facility for confidentiality to attach
- Universal principles re payment and confidentiality



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Conn. Gen. Stat. § 17a-688d.

Mental Health Treatment: Outpatient



A minor CAN receive initial treatment without parental consent if:

- The consent requirement would cause the minor to reject treatment;
- The treatment is clinically indicated;
- The failure to receive treatment would be seriously detrimental to the minor's well-being;
- The minor knowingly and voluntarily sought such treatment; AND
- The provider deems the minor mature enough to participate in treatment productively.

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Conn. Gen. Stat. § 19a-14c.

Outpatient Treatment: continued



- A minor can only receive 6 sessions of outpatient mental health treatment without notification of parents.
- After the 6 sessions, parental consent must be secured.
- Parental consent is not necessary if the provider believes that notification would be seriously detrimental to the minor's well-being.

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id.

Mental Health Treatment: Inpatient



A minor 14 or 15 years of age may be admitted for inpatient treatment of a mental health disorder without parental consent, but the parents must be notified within 5 days.



If a parent requests, in writing, the release of a child who admitted herself for inpatient treatment, the hospital must either release the child or commence a commitment proceeding.

Conn. Gen. Stat. §§ 17a-75, 79,
81, 540-550

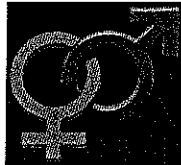
Inpatient Treatment (cont.):

Emergency mental health treatment can be provided without parental consent as long as the condition is of an "extremely critical nature," or "to prevent serious harm to the child."

- A minor 16 years of age or older is treated as an adult for purposes of mental health treatment and can therefore be admitted as a "voluntary patient" without parental consent.
- A minor 14 or 15 years of age can sign herself out of a psychiatric hospital, unless she has been involuntarily committed.

Reproductive Health Care

- Birth Control
- Pregnancy
- Counseling
- Abortion
- Sexually Transmitted Diseases



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Birth Control

Any person in the State of Connecticut, regardless of the person's age, can receive confidential birth control.

Parental consent is not required.

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Pregnancy

- ☒ A minor does not need permission from a parent to receive a pregnancy test and the parents do not need to be notified of the test.
- ☒ A minor may decide whether or not to carry the pregnancy to term.
- ☒ A minor may consent to gynecological examinations without parental consent.

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Abortion & Termination of Pregnancy

Any minor in Connecticut may obtain an abortion without parental consent, although an abortion, for anyone, may only be performed before the viability of the fetus, except when it is necessary to save the life or health of the mother.

Conn. Gen. Stat. §§ 19a-600, 601, 602.

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Abortion & Termination of Pregnancy (cont.)

- Minor = under sixteen for this statute
- Rigorous procedure regarding counseling prior to termination
- Not subject to affect by federal decisions (i.e. *Roe v. Wade*)

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Conn. Gen. Stat. §§ 600, 601, 602

Sexually Transmitted Diseases

- The consultation, examination, and treatment of an STD for a minor is confidential and must not be divulged to parents – including the sending of a bill.
- DCF must be notified of a positive STD test if the minor is 12 years of age or younger.
- Care and treatment of this minor must remain confidential, although DCF may proceed with their own investigation.

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Conn. Gen. Stat. § 19a-216

Testing and Treatment of HIV and AIDS

- A minor does not need parental consent to receive an HIV/AIDS test.
- A physician may only treat a minor without parental permission if the physician believes that notification will be detrimental to the minor's treatment.



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Conn. Gen. Stat. §§ 19a-582, 584, 592

Emancipation

- Must be 16 or 17 y.o.
- Petitions filed in juvenile or probate court
- May be DCF investigation and/or atty. appointed for child
- Confers all rights and responsibilities of adulthood, inc.
 - medical & dental care, educational consent
 - Contracts, marriage, property
 - Control earnings, etc.

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Conn. Gen. Stat. § 46b-150 - 150e

Emancipation

■ Statutory Grounds:

- Marriage
- Active US military service
- Child living away from parents/guardians and actively managing own financial affairs; OR
- Good cause shown that in best interests of minor child or best interests of parents/guardians

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Conn. Gen. Stat. § 46b-150 -
150e

Child Protection System - How does it affect adolescent care



DEPARTMENT
OF
CHILDREN AND FAMILIES

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What Must Be Reported?

❖ Abuse

- ❖ Non-accidental physical injury/injury which is at variance with the history given
- ❖ Abuse inflicted upon him by a person responsible for such child or person given access by a responsible person, or a person entrusted with the care of the child.
- ❖ Is placed at imminent risk of serious harm
- ❖ Neglect

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Source: Conn. Gen. Stat. §§ 17a-
101a, 46b-120

Reporting and Confidentiality: The Rules

- ❖ ***When to Report***
- ❖ ***Does Statutory Rape = Mandatory Report?***
- ❖ ***Betrayal of Trust vs. Legal Duty***
- ❖ ***What is an Adult for "Consent"***

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Reaffirming Principles of Confidentiality

- Types of Medical Conditions/Treatments (non-reproductive health care issues)
- Reproductive Health Care Issues
- Privileged Communications
- Emancipated Minor

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Resources



- ❖ DCF Web Site: www.state.ct.us/dcf
- ❖ DCF Care Line: (800) 842-2288
- ❖ Fed Govt. - Administration for Children & Families: www.acf.hhs.gov
- ❖ Center for Children's Advocacy: www.kidscounsel.org (860) 570-5327
- ❖ MLPP: www.ccmckids.org/mlpp (860) 570-5327
- ❖ CCMC – SCAN Program (860) 545-9995
- ❖ Yale Child Study Center (203) 785-2513

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Resources (cont.)

- ❖ DSS Web Site: www.state.ct.us/dcf
www.ct.gov/dss
- ❖ End Hunger CT (860) 560-2100
- ❖ Planned Parenthood of CT Web Site: www.ppct.org
- ❖ Conn. AIDS Resource Coalition: www.ctaidscoalition.org/fairfield.htm

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